

ROB BONTA
 Attorney General of California
 NICKLAS A. AKERS (SBN 211222)
 Senior Assistant Attorney General
 BERNARD A. ESKANDARI (SBN 244395)
 Supervising Deputy Attorney General
 JOSHUA OLSZEWSKI-JUBELIRER (SBN 336428)
 MEGAN O'NEILL (SBN 343535)
 MARISSA ROY (SBN 318773)
 NAYHA ARORA (SBN 350467)
 Deputy Attorneys General
 455 Golden State Ave., Suite 11000
 San Francisco, CA 94102-7004
 Telephone: (415) 510-4400
 Fax: (415) 703-5480
 E-mail: Marissa.Roy@doj.ca.gov
Attorneys for The People of the State of California

Additional parties and counsel listed on signature pages

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

People of the State of California, et al.

v.

Meta Platforms, Inc., Instagram, LLC, Meta Payments, Inc., Meta Platforms Technologies, LLC

*Office of the Attorney General, State of Florida,
 Department of Legal Affairs*

v.

Meta Platforms, Inc., Instagram LLC

 IN RE: SOCIAL MEDIA ADOLESCENT
 ADDICTION/PERSONAL INJURY
 PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO:
 4:23-cv-05448, 4:23-cv-05885

MDL No. 3047

Case Nos. 4:23-cv-05448-YGR

4:23-cv-05885-YGR

**STATE ATTORNEYS GENERAL'S
 RESPONSE TO PRO SE MOTION TO
 INTERVENE**

Judge: Honorable Yvonne Gonzalez Rogers

INTRODUCTION

Taiming Zhang’s (“Zhang”) pro se motion to intervene is an improper attempt to insert private claims for individual relief into public law-enforcement actions brought by 33 state attorneys general and the Florida Attorney General (collectively the “State AGs”). As this Court recently held in denying a similar motion, the Federal Rules of Civil Procedure and this Circuit’s precedent do not allow Zhang to intervene in this action: “This state attorneys general enforcement action involves interests separate from [the proposed intervenor]’s. Further, the instant case does not preclude [the proposed intervenor] from seeking relief on an individualized basis.” Dkt. No. 80 at 1; *see also id.* at 5 (“[The proposed intervenor] is nonetheless free to file his own complaint against defendant Meta. Nothing about this state attorneys general enforcement action precludes him from doing so.”).

ARGUMENT

I. ZHANG HAS NO MANDATORY RIGHT TO INTERVENE.

Zhang cannot establish a mandatory right to intervene in this public enforcement action. Rule 24(a) gives a right to intervene to anyone who is “given an unconditional right to intervene by federal statute” or, alternatively, anyone who has (1) “an interest relating to the property or transaction that is the subject of the action” that (2) would be “impair[ed] or impede[d]” if the person was not permitted to intervene and (3) could not be “adequately represent[ed]” by the existing parties. Fed. R. Civ. P. 24(a)(1)-(2); *see also, e.g., Cal. Dep’t of Toxic Substances Control v. Jim Dobbas, Inc.*, 54 F.4th 1078, 1086 (9th Cir. 2022). The burden is on Zhang to establish that Rule 24’s factors are met. *Id.* Here, Zhang does not identify an unconditional right to intervene and does not meet any of the three factors that would alternatively give rise to such a right.

First, Zhang does not have a legally sufficient interest in the “property or transaction” underlying this enforcement action. *See, e.g., Donaldson v. United States*, 400 U.S. 517, 531 (1971) (requiring a “significantly protectable interest”); *United States v. Alisal Water Corp.*, 370 F.3d 915, 919-20 (9th Cir. 2004) (holding that an “interest must be concrete,” not “several degrees removed” or “prospective”). Here, the State AGs have brought a public enforcement

1 action that does not involve property that Zhang has a claim to, contracts Zhang is party to, or
 2 Zhang's economic interests. Zhang's interest in the State AGs' public enforcement action appears
 3 to derive from pending litigation against Twitter (not a defendant in the State AGs' action)
 4 involving allegations of breach of contract, tortious conduct, and common law fraud (not claims
 5 in the State AGs' action against Meta) seeking, among other remedies, reinstatement of Zhang's
 6 suspended Twitter account (not relief the State AGs are seeking). *See* Complaint at ¶¶ 1, 42,
 7 *Taiming Zhang v. Twitter, Inc.*, 3:23-cv-00980 (N.D. Cal., Mar. 2, 2023). Also, Zhang's possible
 8 generalized interest in the potential application of the Communications Decency Act to the State
 9 AGs' separate action is insufficient to support mandatory intervention. *See Donaldson*, 400 U.S.
 10 at 531. For this reason alone, Zhang's motion for mandatory intervention must be denied.

11 **Second**, the State AGs' public enforcement action against Meta has no impact on Zhang's
 12 interests because Zhang is free to engage in separate litigation. As the Court recently held in
 13 denying a similar attempt to intervene in this enforcement action, "an individual's interests are
 14 not impeded or impaired by a pending case when they can be 'raise[d] . . . through a separate
 15 lawsuit[.]'" Dkt 80 at 3 (quoting *Warren v. Comm'r of Internal Revenue*, 302 F.3d 1012, 1015
 16 (9th Cir. 2002)) (alternations in original). As there, "[h]ere, [Zhang] is free to file a private action
 17 . . . and to seek consolidation of such an action with the multi-district litigation of which this case
 18 is a part." *Id.* Indeed, Zhang's separate action against Twitter demonstrates that the State AGs'
 19 separate public enforcement action against Meta in no way impedes Zhang's interests or ability to
 20 litigate.

21 **Third**, to the extent that Zhang has a generalized interest in the public rights that the State
 22 AGs seek to vindicate, the State AGs are best situated to represent that interest. When the
 23 government is representing the public, there is an "assumption of adequacy." *Arakaki v.*
 24 *Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003). Thus, the proposed intervenor must make a "very
 25 compelling showing" that the government cannot adequately represent public rights. *Oakland*
 26 *Bulk & Oversized Terminal, LLC v. City of Oakland*, 960 F.3d 603, 620 (9th Cir. 2020). Zhang
 27 makes no showing, nor could Zhang. In sum, Zhang meets none of the requirements for
 28 mandatory intervention.

II. ZHANG HAS NO BASIS TO PERMISSIVELY INTERVENE.

In the absence of grounds for mandatory intervention, the Court may permit intervention to anyone who “is given a conditional right to intervene by a federal statute” or who “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1)(A)-(B). Zhang has not made either showing.

As an initial matter, Zhang does not identify a federal statute that provides a conditional right to intervene, and the State AGs are unaware of one. Further, there are no common questions of fact or law as Zhang appears to invoke contract, tort, and common-law theories that are absent from the State AGs’ case. By contrast, as this Court observed, the state AG’s action focuses on “misconduct stemming from Meta’s (1) collection of data from users under thirteen years old without required parental notification and consent; (2) misrepresentations surrounding the safety of its social media platforms; and (3) the deceptive and unfair constellation of features that prolong engagement and lead to youth addiction.” Dkt. 80 at 5 (citation and quotation marks omitted). These significant differences, and the fact that Zhang is “free to file his own complaint,” Dkt. 80 at 5, underscore that permissive intervention should also be denied.

CONCLUSION

For these reasons, the State AGs respectfully request that the Court deny Taiming Zhang’s motion to intervene in this public enforcement action.

Dated: March 25, 2024

Respectfully submitted,

/s/ Marissa Roy

Deputy Attorney General
California Department of Justice
Office of the Attorney General

*Attorney for Plaintiff the People of the State
of California*

KRISTIN K. MAYES

Attorney General
State of Arizona

/s/ Laura Dilweg

Laura Dilweg (AZ No. 036066 CA No. 260663)

Consumer Protection Section Chief
Counsel

Nathan Whelihan (AZ No. 037560),
pro hac vice

Assistant Attorney General
Arizona Attorney General's Office
2005 North Central Avenue
Phoenix, AZ 85004

Phone: (602) 542-3725

Fax: (602) 542-4377

Laura.Dilweg@azag.gov

Nathan.Whelihan@azag.gov

*Attorneys for Plaintiff State of Arizona, ex
rel. Kristin K. Mayes, Attorney General*

PHILIP J. WEISER

Attorney General
State of Colorado

/s/ Bianca E. Miyata

Bianca E. Miyata (CO Reg. No. 42012),
pro hac vice

Senior Assistant Attorney General
Lauren M. Dickey (CO Reg. No. 45773)
First Assistant Attorney General
Megan Paris Rundlet (CO Reg. No. 27474)

Senior Assistant Solicitor General
Elizabeth Orem (CO Reg. No. 58309)
Assistant Attorney General

Colorado Department of Law

Ralph L. Carr Judicial Center

Consumer Protection Section

1300 Broadway, 7th Floor

Denver, CO 80203

Phone: (720) 508-6651

bianca.miyata@coag.gov

*Attorneys for Plaintiff State of Colorado, ex
rel. Philip J. Weiser, Attorney General*

WILLIAM TONG

Attorney General
State of Connecticut

/s/ Lauren H. Bidra

Lauren H. Bidra

(CT Juris No. 440552), *pro hac vice*

Special Counsel for Media and Technology

Krislyn M. Launer

(CT Juris No. 440789), *pro hac vice*

Ashley H. Meskill

(CT Juris No. 444377), *pro hac vice*

Assistant Attorneys General

Connecticut Office of the Attorney General

165 Capitol Avenue

Hartford, Connecticut 06106

Phone: 860-808-5306

Fax: 860-808-5593

Lauren.Bidra@ct.gov

Krislyn.Launer@ct.gov

Ashley.Meskill@ct.gov

Attorneys for Plaintiff State of Connecticut

KATHLEEN JENNINGS

Attorney General
State of Delaware

/s/ Marion Quirk

Owen Lefkon
Director of Fraud and Consumer Protection
Marion Quirk, *pro hac vice*
Director of Consumer Protection
Dashiell Radosti (DE Bar 7100), *pro hac*
vice
Deputy Attorney General
Delaware Department of Justice
820 N. French Street, 5th Floor
Wilmington, DE 19801
Phone: (302) 683-8800
Dashiell.Radosti@delaware.gov

Attorneys for Plaintiff State of Delaware

ASHLEY MOODY

Attorney General
State of Florida

/s/ Victoria Ann Butler

Victoria Ann Butler (FL Bar No. 861250),
pro hac vice
Director of Consumer Protection Litigation
3507 E. Frontage Road, Suite 325
Tampa, FL 33607
Telephone: (813) 287-7950
Victoria.butler@myfloridalegal.com

John M. Guard (FL Bar No. 374600),
pro hac vice
Chief Deputy Attorney General
PL-01 The Capitol
Tallahassee, FL 32399
John.guard@myfloridalegal.com

Nicholas J. Weilhammer (FL Bar No. 479322),
pro hac vice
Associate Deputy Attorney General for
Enforcement
PL-01 The Capitol
Tallahassee, FL 32399
Telephone: (850) 414-3861
Nicholas.weilhammer@myfloridalegal.com

Donna Cecilia Valin (FL Bar No. 96687),
pro hac vice
Special Counsel, Assistant Attorney General
135 West Central Blvd.
Orlando, FL 32801
Telephone: (407) 316-4840
Donna.valin@myfloridalegal.com

Karen E. Berger (FL Bar No. 72991)
pro hac vice
Special Counsel, Assistant Attorney General
110 SE 6th Street, 10th Floor
Fort Lauderdale, FL 33301
Telephone: (954) 712-4600
Karen.berger@myfloridalegal.com

*Attorneys for Office of the Attorney General,
State of Florida, Department of Legal Affairs*

CHRISTOPHER M. CARR

Attorney General
State of Georgia

/s/ Melissa M. Devine

Melissa M. Devine (GA Bar No. 403670),
pro hac vice
Assistant Attorney General
Office of the Attorney General of the State
of Georgia
2 Martin Luther King Jr. Drive, SE, Ste. 356
Atlanta, GA 30334
Phone: (404) 458-3765
Fax: (404) 651-9108
mdevine@law.ga.gov

Attorneys for Plaintiff State of Georgia

ANNE E. LOPEZ

Attorney General
State of Hawai'i

/s/ Christopher T. Han

Bryan C. Yee (HI JD No. 4050),
pro hac vice
Supervising Deputy Attorney General
Christopher T. Han (HI JD No. 11311),
pro hac vice
Deputy Attorney General
Department of the Attorney General
Commerce and Economic Development
Division
425 Queen Street
Honolulu, Hawai'i 96813
Phone: (808) 586-1180
Bryan.c.yee@hawaii.gov
Christopher.t.han@hawaii.gov

Attorneys for Plaintiff State of Hawai'i

RAÚL R. LABRADOR

Attorney General
State of Idaho

By: /s/ Nathan Nielson

Nathan H. Nielson (ID Bar No. 9234),
Stephanie N. Guyon (ID Bar No. 5989)
pro hac vice
Deputy Attorneys General
Attorney General's Office
P.O. Box 83720
Boise, ID 83720-0010
(208) 334-2424
nathan.nielson@ag.idaho.gov
stephanie.guyon@ag.idaho.gov

Attorneys for Plaintiff State of Idaho

KWAME RAOUL

Attorney General
State of Illinois

By: /s/ Daniel Edelstein

Susan Ellis, Chief, Consumer Protection
Division (IL Bar No. 6256460)
Greg Grzeskiewicz, Chief, Consumer Fraud
Bureau (IL Bar No. 6272322)
Jacob Gilbert, Deputy Chief, Consumer
Fraud Bureau (IL Bar No. 6306019)
Daniel Edelstein, Supervising Attorney,
Consumer Fraud Bureau (IL Bar No.
6328692), *pro hac vice*
Kevin Whelan, Supervising Attorney,
Consumer Fraud Bureau (IL Bar No.
6321715), *pro hac vice*
Matthew Davies, Assistant Attorney
General, Consumer Fraud Bureau (IL Bar
No. 6299608), *pro hac vice*
Adam Sokol, Senior Assistant Attorney
General, Consumer Fraud Bureau (IL Bar
No. 6216883)
Emily Maria Migliore, Assistant Attorney
General, Consumer Fraud Bureau (IL Bar
No. 6336392)
Office of the Illinois Attorney General
115 S. LaSalle Street
Chicago, Illinois 60603
312-814-8554
Susan.Ellis@ilag.gov
Greg.Grzeskiewicz@ilag.gov
Jacob.Gilbert@ilag.gov
Daniel.Edelstein@ilag.gov
Kevin.Whelan@ilag.gov
Adam.Sokol@ilag.gov
Emily.Migliore@ilag.gov

*Attorneys for Plaintiff the People of the State
of Illinois*

THEODORE E. ROKITA

Attorney General
State of Indiana

/s/ Scott L. Barnhart

Scott L. Barnhart (IN Atty No. 25474-82),
pro hac vice
Chief Counsel and Director of Consumer
Protection
Corinne Gilchrist (IN Atty No. 27115-53),
pro hac vice
Section Chief, Consumer Litigation
Mark M. Snodgrass (IN Atty No. 29495-49),
pro hac vice
Deputy Attorney General
Office of the Indiana Attorney General
Indiana Government Center South
302 West Washington St., 5th Floor
Indianapolis, IN 46203
Telephone: (317) 232-6309
Scott.Barnhart@atg.in.gov
Corinne.Gilchrist@atg.in.gov
Mark.Snodgrass@atg.in.gov

Attorneys for Plaintiff State of Indiana

KRIS W. KOBACH

Attorney General
State of Kansas

/s/ Sarah M. Dietz

Sarah M. Dietz
(KS Bar No. 27457), *pro hac vice*
Assistant Attorney General
Office of the Attorney General
120 SW 10th Avenue, 2nd Floor
Topeka, Kansas 66612
Telephone: (785) 296-3751
Fax: (785) 296-3131
Email: sarah.dietz@ag.ks.gov

Attorney for Plaintiff State of Kansas

RUSSELL COLEMAN

Attorney General
Commonwealth of Kentucky

/s/ J. Christian Lewis

J. Christian Lewis (KY Bar No. 87109),
pro hac vice
Philip Heleringer (KY Bar No. 96748),
pro hac vice
Zachary Richards (KY Bar No. 99209),
pro hac vice app. forthcoming
Daniel I. Keiser (KY Bar No. 100264),
pro hac vice
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, KY 40601
Christian.Lewis@ky.gov
Philip.Heleringer@ky.gov
Zach.Richards@ky.gov
Daniel.Keiser@ky.gov
Phone: (502) 696-5300
Fax: (502) 564-2698

*Attorneys for Plaintiff the Commonwealth of
Kentucky*

LIZ MURRILL

Attorney General
State of Louisiana

/s/ Arham Mughal

Arham Mughal (LA Bar No. 38354),
pro hac vice
L. Christopher Styron (LA Bar No. 30747),
pro hac vice
Assistant Attorneys General
Louisiana Department of Justice
Office of the Attorney General
Public Protection Division
Consumer Protection Section
1885 N 3rd Street, 4th Floor
Baton Rouge, LA 70802
Tel: (225) 326-6438
MughalA@ag.louisiana.gov
StyronL@ag.louisiana.gov

Attorneys for State of Louisiana

AARON M. FREY

Attorney General
State of Maine

/s/ Michael Devine

Michael Devine, Maine Bar No. 5048,
pro hac vice
Laura Lee Barry Wommack, Maine Bar No.
10110, *pro hac vice*
Assistant Attorneys General
Office of the Maine Attorney General
6 State House Station
Augusta, ME 04333
(207) 626-8800
michael.devine@maine.gov
lauralee.barrywommack@maine.gov

Attorneys for Plaintiff State of Maine

ANTHONY G. BROWN

Attorney General
State of Maryland

/s/ Elizabeth J. Stern

Philip D. Ziperman (Maryland CPF No.
9012190379), *pro hac vice*
Deputy Chief, Consumer Protection Division
Elizabeth J. Stern (Maryland CPF No.
1112090003), *pro hac vice*
Assistant Attorney General
Office of the Attorney General of Maryland
200 St. Paul Place
Baltimore, MD 21202
Phone: (410) 576-6417 (Mr. Ziperman)
Phone: (410) 576-7226 (Ms. Stern)
Fax: (410) 576-6566
pziperman@oag.state.md.us
estern@oag.state.md.us

*Attorneys for Plaintiff Office of the Attorney
General of Maryland*

DANA NESSEL
Attorney General
State of Michigan

/s/ Daniel J. Ping
Daniel J. Ping (P81482), *pro hac vice*
Assistant Attorney General
Michigan Department of Attorney General
Corporate Oversight Division
P.O. Box 30736
Lansing, MI 48909
517-335-7632
PingD@michigan.gov

Attorneys for Plaintiff State of Michigan

KEITH ELLISON
Attorney General
State of Minnesota

/s/ Caitlin Micko
Caitlin Micko (MN Bar No. 0395388),
pro hac vice
Assistant Attorney General
Office of the Minnesota Attorney General
445 Minnesota Street, Suite 1200
St. Paul, MN 55101-2130
Tel: (651) 724-9180
caitlin.micko@ag.state.mn.us

*Attorney for Plaintiff State of Minnesota, by
its Attorney General, Keith Ellison*

ANDREW BAILEY
Attorney General
State of Missouri

By: /s/ Michael Schwalbert
Michael Schwalbert, *pro hac vice*
Assistant Attorney General
Consumer Protection Section
Missouri Attorney General's Office
815 Olive Street | Suite 200
Saint Louis, Missouri 63101
michael.schwalbert@ago.mo.gov
Phone: 314-340-7888
Fax: 314-340-7981

*Attorney for Plaintiff State of Missouri, ex
rel. Andrew Bailey, Attorney General*

MICHAEL T. HILGERS
Attorney General
State of Nebraska

/s/ Colin P. Snider
Colin P. Snider (NE #27724)
Assistant Attorney General
pro hac vice
Nebraska Attorney General's Office
2115 State Capitol Building
Lincoln, NE 68509
Phone: (402) 471-2682
Email: colin.snider@nebraska.gov

Attorney for Plaintiff State of Nebraska

MATTHEW J. PLATKIN

Attorney General
State of New Jersey

By: /s/ Kashif T. Chand

Kashif T. Chand (NJ Bar No. 016752008),
pro hac vice
Section Chief, Deputy Attorney General
Thomas Huynh (NJ Bar No. 200942017),
pro hac vices
Assistant Section Chief, Deputy Attorney
General
Gina F. Pittore (NJ Bar No. 323552019), *pro*
hac vice
Verna J. Pradaxay (NJ Bar No. 335822021),
pro hac vice
Mandy K. Wang (NJ Bar No. 373452021),
pro hac vice
Deputy Attorneys General
New Jersey Office of the Attorney General,
Division of Law
124 Halsey Street, 5th Floor
Newark, NJ 07101
Tel: (973) 648-2052
Kashif.Chand@law.njoag.gov
Thomas.Huynh@law.njoag.gov
Gina.Pittore@law.njoag.gov
Verna.Pradaxay@law.njoag.gov
Mandy.Wang@law.njoag.gov

*Attorneys for Plaintiffs State of New Jersey
and the New Jersey Division of Consumer
Affairs*

LETITIA JAMES

Attorney General
State of New York

/s/ Christopher D'Angelo

Christopher D'Angelo, Chief Deputy
Attorney General, Economic Justice
Division
(NY Bar No. 4348744), *pro hac vice*
Christopher.D'Angelo@ag.ny.gov
Clark Russell, Deputy Chief, Bureau of
Internet and Technology
(NY Bar No. 2848323), *pro hac vice*
Clark.Russell@ag.ny.gov
Nathaniel Kosslyn, Assistant Attorney
General (NY Bar No. 5773676), *pro hac vice*
Nathaniel.Kosslyn@ag.ny.gov
New York State Office of the Attorney
General
28 Liberty Street
New York, NY 10005
(212) 416-8262

*Attorneys for Plaintiff the People of the State
of New York*

JOSHUA H. STEIN
 Attorney General
 State of North Carolina

/s/ Kevin Anderson
 Kevin Anderson (N.C. Bar No. 22635),
pro hac vice
 Senior Counsel
 Sarah G. Boyce
 Deputy Attorney General & General Counsel
 Jasmine S. McGhee
 Senior Deputy Attorney General
 Josh Abram
 Kunal Choksi
 Special Deputy Attorneys General
 Charles G. White
 Assistant Attorney General
 N.C. Department of Justice
 Post Office Box 629
 Raleigh, North Carolina 27602
 Telephone: (919) 716-6006
 Facsimile: (919) 716-6050
 kander@ncdoj.gov

*Attorneys for Plaintiff State of North
 Carolina*

DREW H. WRIGLEY
 Attorney General
 State of North Dakota

By: /s/ Elin S. Alm
 Elin S. Alm, *pro hac vice*
 (ND Bar No. 05924)
 Assistant Attorney General
 Christopher G. Lindblad, *pro hac vice*
 (ND Bar No. 06480)
 Assistant Attorney General
 Consumer Protection and Antitrust Division
 Office of Attorney General
 1720 Burlington Drive, Suite C
 Bismarck, ND 58504-7736
 Telephone (701) 328-5570
 ealm@nd.gov
 clindblad@nd.gov

*Attorneys for Plaintiff State of North Dakota,
 ex rel. Drew H. Wrigley, Attorney General*

DAVE YOST
 Attorney General
 State of Ohio

/s/ Kevin R. Walsh
 Melissa G. Wright (Ohio Bar No. 0077843)
 Section Chief, Consumer Protection Section
 Melissa.Wright@ohioago.gov
 Melissa S. Smith (Ohio Bar No. 0083551)
 Asst. Section Chief, Consumer Protection
 Section
 Melissa.S.Smith@ohioago.gov
 Michael S. Ziegler (Ohio Bar No. 0042206)
 Principal Assistant Attorney General
 Michael.Ziegler@ohioago.gov
 Kevin R. Walsh (Ohio Bar No. 0073999),
pro hac vice
 Kevin.Walsh@ohioago.gov
 Senior Assistant Attorney General
 30 East Broad Street, 14th Floor
 Columbus, Ohio 43215
 Tel: 614-466-1031

*Attorneys for State of Ohio, ex rel. Attorney
 General Dave Yost*

ELLEN F. ROSENBLUM

Attorney General
State of Oregon

/s/ Jordan M. Roberts

Jordan M. Roberts (Oregon Bar No. 115010), *pro hac vice*
Assistant Attorney General
Oregon Department of Justice
Consumer Protection Section
100 SW Market Street
Portland, Oregon 97201
Telephone: (971) 673-1880
Facsimile: (971) 673-1884
E-mail: jordan.m.roberts@doj.state.or.us

*Attorneys for State of Oregon, ex rel.
Ellen F. Rosenblum, Attorney General
for the State of Oregon*

MICHELLE A. HENRY

Attorney General
Commonwealth of Pennsylvania

/s/ Timothy R. Murphy

Timothy R. Murphy
Senior Deputy Attorney General
(PA Bar No. 321294), *pro hac vice*
Email: tmurphy@attorneygeneral.gov
Jonathan R. Burns
Deputy Attorney General
(PA Bar No. 315206), *pro hac vice*
Email: jburns@attorneygeneral.gov
Pennsylvania Office of Attorney General
Strawberry Square, 14th Floor
Harrisburg, PA 17120
Tel: 717.787.4530

*Attorneys for Plaintiff the Commonwealth of
Pennsylvania*

PETER F. NERONHA

Attorney General
State of Rhode Island

/s/ Stephen N. Provazza

Stephen N. Provazza (R.I. Bar No. 10435),
pro hac vice
Special Assistant Attorney General
Rhode Island Office of the Attorney General
150 South Main St.
Providence, RI 02903
Phone: 401-274-4400
Email: SProvazza@riag.ri.gov

Attorneys for Plaintiff State of Rhode Island

ALAN WILSON

Attorney General
State of South Carolina

/s/ Anna C. Smith

C. Havird Jones, Jr.
Senior Assistant Deputy Attorney General
Jared Q. Libet (S.C. Bar No. 74975),
pro hac vice
Assistant Deputy Attorney General
Anna C. Smith (SC Bar No. 104749),
pro hac vice
Assistant Attorney General
Clark C. Kirkland, Jr. (CA SBN 272522)
Assistant Attorney General
Office of the Attorney General of South
Carolina
P.O. Box 11549
Columbia, South Carolina 29211
Tel: (803) 734-0536
annasmith@scag.gov

*Attorneys for Plaintiff the State of South
Carolina, ex rel. Alan M. Wilson, in His
Official Capacity as Attorney General of the
State of South Carolina*

MARTY J. JACKLEY

Attorney General
State of South Dakota

/s/ Jessica M. LaMie

By: Jessica M. LaMie (SD Bar No. 4831),
pro hac vice
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605) 773-3215
Jessica.LaMie@state.sd.us

Attorneys for Plaintiff State of South Dakota

JASON S. MIYARES

Attorney General
Commonwealth Of Virginia

/s/ Joelle E. Gotwals

Steven G. Popps
Deputy Attorney General
Richard S. Schweiker, Jr.
Senior Assistant Attorney General and
Section Chief
Joelle E. Gotwals (VSB No. 76779),
pro hac vice
Assistant Attorney General
Office of the Attorney General of Virginia
Consumer Protection Section
202 N. 9th Street
Richmond, Virginia 23219
Telephone: (804) 786-8789
Facsimile: (804) 786-0122
E-mail: jgotwals@oag.state.va.us

*Attorneys for the Plaintiff Commonwealth of
Virginia ex rel. Jason S. Miyares, Attorney
General*

ROBERT W. FERGUSON

Attorney General
State of Washington

/s/ Joseph Kanada

Joseph Kanada (WA Bar No. 55055),
pro hac vice
Alexandra Kory (WA Bar No. 49889),
pro hac vice
Rabi Lahiri
Gardner Reed
Assistant Attorneys General
Washington State Office of the Attorney
General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
(206) 389-3843
Joe.Kanada@atg.wa.gov

Attorneys for Plaintiff State of Washington

PATRICK MORRISEY

Attorney General
State of West Virginia

/s/ Laurel K. Lackey

Laurel K. Lackey (WVSB No. 10267),
pro hac vice
Abby G. Cunningham (WVSB No. 13388)
Assistant Attorneys General
Office of the Attorney General
Consumer Protection & Antitrust Division
Eastern Panhandle Office
269 Aikens Center
Martinsburg, West Virginia 25404
(304) 267-0239
laurel.k.lackey@wvago.gov

*Attorneys for Plaintiff State of West Virginia,
ex rel. Patrick Morrissey, Attorney General*

1 **JOSHUA L. KAUL**

2 Attorney General
3 State of Wisconsin

4 /s/ R. Duane Harlow

5 R. Duane Harlow
6 Assistant Attorney General
7 WI State Bar #1025622, *pro hac vice*
8 Wisconsin Department of Justice
9 Post Office Box 7857
10 Madison, Wisconsin 53707-7857
11 (608) 266-2950
12 harlowrd@doj.state.wi.us

13 *Attorneys for Plaintiff State of Wisconsin*
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ATTESTATION

I hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

DATED: March 25, 2024

By: /s/ Marissa Roy

Marissa Roy

CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system and processed the foregoing document for service by mail to Taiming Zhang at the address provided, 801, No. 21 Taishan Lane, Zhongshan District, Dalian, Liaoning, China.

By: /s/ Marissa Roy

Marissa Roy